
VIA FACSIMILE AND
CERTIFIED MAIL;
RETURN RECEIPT REQUESTED

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Mr. Robert A. Emmett
Senior Environmental Counsel
W.R. Grace & Co.
7500 Grace Drive
Columbia, MD 21044

James C. Kennedy, Esq.
American Premier Underwriters, Inc.
1 East Fourth Street
Cincinnati, OH 45202

Re: W.R. Grace Site, Hamilton, New Jersey

Dear Sirs:

The U.S. Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances, pollutants and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §9601, et seq.

As you know, EPA has been conducting a national investigation relating to potential asbestos contamination at facilities which may have handled vermiculite ore mined by W.R. Grace & Co. ("W.R. Grace") in Libby, Montana.

In connection with this investigation, EPA has documented the release and threatened release of hazardous substances into the environment at the W.R. Grace Superfund Site ("the Site"), located at 35 Industrial Drive, Hamilton Township, Mercer County,

New Jersey. The results of EPA's sampling have previously been provided to your companies.

The Site is located in a predominately industrialized area and consists of two parcels. The first parcel is presently used by a paper recycling company. The recycling facility building is a former railroad maintenance shed which was later used for vermiculite processing. This parcel borders the second, a vacant Amtrak-owned lot to the northeast, railroad lines to the north and east, and other commercial/industrial buildings to the south. EPA's investigations indicate that from 1948-1963, an 8.4 acre portion of the Site was leased by Zonolite Co. ("Zonolite") from Penn Central Transportation Corp. ("Penn Central"). After purchasing Zonolite, W.R. Grace leased and initially operated all of, and later a reduced part of, this 8.4 acre portion of the Site from 1963-1994.

Both Zonolite and W.R. Grace utilized the Site to make vermiculite-based products such as structural fireproofing, thermal insulation for masonry products, lightweight concrete aggregates, and horticultural vermiculite. Most of the raw vermiculite (unexpanded) was received from Libby, Montana. EPA's sampling results corroborate historic aerial photo analysis and other information which clearly document asbestos disposal on the grounds around the Site.

Amtrak obtained the Site from Penn Central in or about 1976 and continued leasing to W.R. Grace. After W.R. Grace ceased operations at the Site in 1994, the property was vacant until 1996. Through a 1996 lease and agreement of sale, MLB Properties, LLC ("MLB") obtained title in or about 1999 to a 4.24 acre portion of the Site, including the former vermiculite processing building. Accurate Document Destruction Inc. ("ADDI") currently leases the facility from MLB and operates a paper and cardboard recycling center.

In accordance with CERCLA, EPA has taken various response actions with respect to the release and threatened release of hazardous substances at the Site. These response actions include, but are not limited to, site assessment activities, sampling, installation of temporary high-visibility fencing, as well as various enforcement-related activities. As a result, EPA has spent and continues to spend public funds with respect to the Site.

Notice of Potential Liability

Under CERCLA and other laws, responsible parties may be held liable for all costs incurred by the federal government in taking response actions with respect to sites where there has been a release or a threatened release of hazardous substances. Responsible parties under CERCLA include current and past owners and operators of the facility from which there has been a release or threat of release of a hazardous substance.

EPA has evaluated information obtained in connection with the Site. Based on this information, EPA believes that W.R. Grace (and its predecessor, Zonolite), was an operator of the Site at the time of disposal. As such, EPA believes that W.R. Grace is a potentially responsible party ("PRP") with respect to the Site, within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. Section 9607(a)(2). EPA also believes that Amtrak is a current owner of a portion of the Site, and was also an owner of the Site at the time of disposal. As such, EPA believes that Amtrak is a PRP with respect to the Site, within the meaning of Sections 107(a)(1) and (2) of CERCLA, 42 U.S.C. Sections 9607(a)(1) and (2). EPA also believes that American Premier Underwriters, Inc. ("APU") is the successor to Penn Central, which was an owner at the time of disposal. As such, EPA believes that APU is a PRP with respect to the Site, within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. Section 9607(a)(2).

By separate letter, EPA is also issuing a similar notice of potential liability to MLB and ADDI.

Performance of Removal Action

Based upon our evaluation of conditions at the Site, we believe that a removal action is necessary there. EPA expects this removal action to include, among other things, sampling on the Amtrak parcel to delineate the extent of contamination, removal of select vegetation (i.e., trees and brush) from a portion of the contaminated area, excavation and off-site disposal of soils and debris containing 1% or greater asbestos (as identified by EPA and the aforementioned sampling activities), post excavation sampling and analysis, restoration of excavated areas with certified clean backfill, revegetation of disturbed areas, as necessary, replacement of excavated parking lot areas with the appropriate stone base (i.e. dense grade aggregate), and final grading to allow for proper storm water drainage. In view of the conditions, including but not limited to, potential migration of the asbestos at the Site, EPA seeks to commence this removal action promptly.

We wish to determine whether your respective companies are willing to perform the removal action at the Site or to fund EPA's performance of the removal action. Any agreement by your companies to perform or fund the removal action would need to be memorialized in an administrative consent order issued by EPA under CERCLA. If your company declines and EPA performs the work itself, your company may be liable under Section 107(a) of CERCLA for EPA's costs incurred in connection with that work. Should you not volunteer to perform or fund the work, EPA also may unilaterally require you to perform the work pursuant to Section 106(a) of CERCLA.

Please notify EPA, in writing, **within fourteen (14) calendar days of your receipt of this letter** as to whether you or your company is prepared to perform or finance the above-referenced removal activities. Your reply to this letter should be sent to:

Brian E. Carr, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 17th Floor
New York, New York 10007-1866
(212) 637-3104 (facsimile)

with a copy to:

Michael Ferriola
Emergency and Remedial Response Division
U. S. Environmental Protection Agency, Region II
2890 Woodbridge Avenue
Edison, NJ 08837

If you have any questions, you may contact Mr. Carr at (212) 637-3170. Thank you for your attention to this matter.

Sincerely yours,

Richard L. Caspe, Director
Emergency and Remedial Response Division

cc: David M. Cleary, Esq.
Nelson Mullins Riley & Scarborough
Bob Marriam, W.R. Grace
Benjamin Stonelake, Esq.
Blank Rome Comisky & McCauley
Mark L. Barretti, MLB Properties, LLC
Stephen Mandarano, ADDI

bcc: Mike Ferriola, EPA-ERRD-RPB
Brian E. Carr, EPA-ORC
Marissa Truono, EPA-ERRD-RAB